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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,688	03/17/2004	George H. Harth III	7071	5359
41669 7590 04/04/2007 THE BABCOCK & WILCOX COMPANY PATENT DEPARTMENT 20 SOUTH VAN BUREN AVENUE BARBERTON, OH 44203			EXAMINER WALBERG, TERESA J	
			ART UNIT	PAPER NUMBER
			3744	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/04/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/802,688

Applicant(s)

HARTH, GEORGE H.

Examiner

Teresa J. Walberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 6 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Brownlee (6,065,532).

Brownlee discloses a structural framework (Fig. 22A) including one pair of elongated bars (31a and 31b), a tube portion (2) disposed between the elongated bars (31a and 31b), at least one shield (22a) fitted on the tube portion (2), a cap (30) positioned at an end of the elongated bars (31a and 31b), the cap (30) being sized to overlap the tube portion (2) and an adjacent portion of the at least one shield (22a), the elongated bars (31a and 31b) extending in a direction transverse to the longitudinal axis of the tube portion (Fig. 22A), means (32) for fastening the elongated bars (31a and 31b) together.

With respect to claim 7, Brownlee discloses a structural framework (Fig. 22A) comprised of at least one pair of elongated bars (31a and 31b), a tube portion (2) disposed between the elongated bars (31a and 31b), the tube portion (2) having a side periodically subjected to the action of a stream of blowing fluid cleaning medium (col. 1, lines 17-30), spaced protective shields (22a) mounted on the side of the tube portion (2), means for fastening the elongated bars (31a and 31b) together, a cap (30) positioned at an end of the elongated bars (31a

and 31b), the cap (30) being sized to overlap the tube portion (2) and adjacent portions of the protective shields (22b), thereby covering any gaps exposing the side of the tube portion to the action of the fluid cleaning medium, the elongated bars (31a and 31b) extending in a direction transverse to the longitudinal axis of the tube portion (2).

3. Claims 1-3, 4, 7, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Harth et al (6,006, 702).

Harth et al disclose a structural framework (Figs. 1 and 2) including one pair of elongated bars (14 and 16), a tube portion (18) disposed between the elongated bars (14 and 16), at least one shield (24) fitted on the tube portion (18), a cap (23) positioned at an end of the elongated bars (14 and 16), the cap (23) being sized to overlap the tube portion (18) and an adjacent portion of the at least one shield (24), the elongated bars (14 and 16) extending in a direction transverse to the longitudinal axis of the tube portion (Figs. 1 and 2), means (22) for fastening the elongated bars (14 and 16) together, the cap (23) being welded to at least one of the elongated bars (at 26).

With respect to claim 7, Harth et al disclose a structural framework (Figs. 1 and 2) comprised of at least one pair of elongated bars (14 and 16), a tube portion (18) disposed between the elongated bars (14 and 16), the tube portion (18) having a side periodically subjected to the action of a stream of blowing fluid cleaning medium (20 in Fig. 2), spaced protective shields (24) mounted on the

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side of the tube portion (18), means (22) for fastening the elongated bars (14 and 16) together, a cap (23) positioned at an end of the elongated bars (14 and 16), the cap (23) being sized to overlap the tube portion (18) and adjacent portions of the protective shields (24), thereby covering any gaps exposing the side of the tube portion to the action of the fluid cleaning medium, the elongated bars (14 and 16) extending in a direction transverse to the longitudinal axis of the tube portion (18), the cap (23) being welded to at least one of the elongated bars (at 26).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harth et al (6,006, 702) in view of Hardtke (4,951,902).

Harth et al discloses a structural framework as claimed with the exception of the cap being formed with at least one shoulder segment. Hardtke discloses a structural framework (Fig. 2) used with pipes (5) and having shoulder segments (the outwardly extending portions of 7 and 3 in Fig. 2). It would have been obvious in view of Hardtke to provide shoulder portions for the framework of Harth et al, the motivation being to enable easier connection of the parts of the

framework. Note that while the shoulder portions are disclosed as being longitudinal with respect to the cap and the pipe, this is not currently required by the claims.

6. Claims 6 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Breeding, Yoshimitsu, Shimoda, and Buckshaw are cited to show shields for tubes.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa J. Walberg whose telephone number is 571-272-4790. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Teresa J. Walberg
Primary Examiner
Art Unit 3744

tjw